

Message

From: Hurlid, Kathy [Hurlid.Kathy@epa.gov]
Sent: 4/5/2018 3:42:11 PM
To: Eisenberg, Mindy [Eisenberg.Mindy@epa.gov]; McDavit, Michael W. [Mcdavit.Michael@epa.gov]
Subject: talking points - sorry I hit send yesterday, but they did not go

CWA section 404(g)

ASWM – Meeting next week; state session on assumption.

- John sh/could ask if Dave Ross wants him to indicate in his talking points that EPA will be moving forward on rulemaking to clarify CWA 404(g) requirements and process - including assumable waters and to watch for the reg agenda.

Michigan –

Ex. 5 Deliberative Process (DP)

FL – next face to face meeting 4/24-26/18 in Tallahassee

- Action – Can you check with Dave R. to see if he has any comments on the draft MOA? We want to be sure to address them with the state.
- Action – do we know any more about the assumable waters discussions and how issues are going to be resolved in FL? Don't want to predetermine the rule, but need to assist FL.
- Governor signed authorizing legislation last week

- State is now embarking on rule making process – issue: FL rule process cannot be completed prior to August 20, 2018. This is an optimistic schedule dependent upon no major comments or issues identified during the rulemaking process. We/EPA had indicated we needed the complete application by August 1, 2018, to allow enough time for the required 120-day review period for approval to be finalized (and published in the FR so that they can issue permits by December 2018.
- Outstanding issues:

Ex. 5 Deliberative Process (DP)

Arizona – authorizing legislation is being discussed in the House and should be voted on today. State will then work on regulations with goal of submitting a package to EPA May of 2019.

Rule

- Awaiting OP tiering and list of workgroup members to get started. If there is an opportunity for Dave or John to prompt this that would be great. We want tier 2. (well 3 would be nice but we won't get that). We need to know the tiering so we can begin the process (different requirements for various tiers)

Ex. 5 Deliberative Process (DP)

- Draft 1pr communication plan under staff review.

404 delegation manual – I know it has been signed.

Ex. 5 Deliberative Process (DP)

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MN – Minnesota published its final report of assumable waters in MN.

- It can be found at: http://www.bwsr.state.mn.us/wetlands/cwa_404/2015-17_CWA-404_feasibility_study.html
- BWSR will also be posting a mapping app allowing users to see the results of the analysis for particular areas of interest. The link will be added to the web page cited above.
- Of interest to note from the report: "The COE had initially indicated concerns with the mapping results and draft report. However, on February 16, 2018, after further review of a modified version of the draft report, the COE commented that, "Given the limitations acknowledged in the report, the most recent draft appears to be as representative an estimate as can reasonably be obtained using landscape scale GIS data."

Summary of report:

*Relative statewide proportions of
COE-retained and State-assumable
waters in Minnesota:*

Type of Water	% COE-Retained	% State-Assumable
Wetlands (acres)	91.5%	8.5%
Lakes/Basins (acres)	98.7%	1.3%
Streams (miles)	12.0%	88.0%

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